

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GEORGE HRONAKES,)	2:21-cv-819
)	Civil Action No. _____
Plaintiff,)	
)	
v.)	
)	
BRINKER PENN TRUST &)	<i>ELECTRONICALLY FILED</i>
BRINKER INTERNATIONAL,)	
d/b/a CHILI'S GRILL & BAR,)	
)	
Defendants.)	

NOTICE OF REMOVAL

To: The Honorable Judges of the United States District Court
for the Western District of Pennsylvania

Defendants Brinker Penn Trust and Brinker International d/b/a Chili's Grill & Bar,¹ in accordance with the applicable Federal Rules of Civil Procedure and Title 28 of the United States Code §§ 1331, 1441, and 1446, file this Notice of Removal and remove the action entitled "George Hronakes v. Brinker Penn Trust & Brinker International d/b/a Chili's Grill & Bar" that was originally filed in the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania, to the United States District Court for the Western District of Pennsylvania. Removal of this action is based upon the following:

BACKGROUND

1. Plaintiff George Hronakes instituted this action in the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania by filing a Complaint on May 12, 2021. A copy of the Complaint filed by Plaintiff in the state-court action is attached as Exhibit A.

2. Plaintiff served Defendants with the Complaint on May 25, 2021.

¹ Plaintiff incorrectly names Defendants as his employer in this action. Plaintiff's employer was Brinker International Payroll Company, L.P. Brinker Penn Trust and Brinker International, d/b/a Chili's Grill and Bar make this appearance for the limited purposes of removal.

3. Defendants have not, to date, filed an answer or other pleading in the Court of Common Pleas of Allegheny County.

VENUE

4. The Court of Common Pleas of Allegheny County, where Plaintiff's Complaint was filed, is within this Court's District. This action is therefore properly removable to this Court under 28 U.S.C. § 1446(a).

REMOVAL IS PROPER BASED ON FEDERAL-QUESTION JURISDICTION²

5. This action is within the original jurisdiction of this Court under 28 U.S.C. § 1331 because Plaintiff's civil action arises under federal law. *See Merrell Dow Pharmaceuticals, Inc. v. Thompson*, 478 U.S. 804, 808, 106 S.Ct. 3229, 3232 (1986) (A "suit arises under the law that creates the cause of action.") (internal citations omitted).

6. Plaintiff alleges that Defendants discriminated against him because of his age and created a hostile work environment in violation of the Age Discrimination in Employment Act, 29 U.S.C. § 621 *et seq.* ("ADEA"); Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* ("Title VII"); and the Pennsylvania Human Relations Act, 43 P.S. § 951 *et seq.* ("PHRA"). *See* Ex. A.

7. As pleaded, all of Plaintiff's claims derive from a "common nucleus of operative fact." *City of Chicago v. Int'l College of Surgeons*, 522 U.S. 156, 164-65 (1997).

8. Plaintiff's ADEA, Title VII, and PHRA claims depend on the same alleged discrimination.

² The proper employer in this action, Brinker International Payroll Company, L.P., is a Limited Partnership formed under the laws of Delaware and domiciled in Texas. Because Plaintiff is a citizen of Pennsylvania and the amount in controversy exceeds \$75,000.00, once the proper parties are named in this lawsuit, the District Court will also have diversity jurisdiction over this action under 28 U.S.C. § 1332(a).

9. For these reasons, Plaintiff's federal and state law claims form part of the same case or controversy so that this Court may exercise supplemental jurisdiction over Plaintiff's claims under Pennsylvania law. 28 U.S.C. § 1367(a); 28 U.S.C. § 1441(c).

COMPLIANCE WITH PROCEDURAL REQUIREMENTS

10. Based on the date of Plaintiff's service of the Complaint, this Notice of Removal is timely filed under 28 U.S.C. § 1446(b), in that Defendants have removed within 30 days of receipt of a properly served Complaint from which Defendants could ascertain that this action is removable.

11. Copies of all process, pleadings, orders, and other papers or exhibits of every kind currently on file in the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania, are attached to this Notice of Removal as Exhibit B, in accordance with 28 U.S.C. § 1446(a).

12. Upon filing this Notice of Removal, Defendants will provide a written notification to Plaintiff and will file a Notice of Filing of Notice of Removal with the clerk of the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania. A copy of the Notice of Filing of Notice of Removal is attached as Exhibit C (without exhibits).

13. Defendants file this Notice without waiving any defenses to the claims asserted by Plaintiff, without conceding that Plaintiff has stated claims upon which relief can be granted, and without conceding that Plaintiff is entitled to any damages against Defendants in any amount.

WHEREFORE, Defendants request that the United States District Court for the Western District of Pennsylvania accept the removal of this action from the Court of Common Pleas of Allegheny County, Commonwealth of Pennsylvania and direct that the Court of Common Pleas have no further jurisdiction over this matter.

Dated: June 23, 2021

Respectfully submitted,

JACKSON LEWIS P.C.

/s/ Marla N. Presley

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

GEORGE HRONAKES,

Plaintiff,

v.

BRINKER PENN TRUST &
BRINKER INTERNATIONAL,
d/b/a CHILI'S GRILL & BAR,

Defendants.

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Civil Action No. _____

ELECTRONICALLY FILED

CERTIFICATE OF SERVICE

I hereby certify that on June 23, 2021, I electronically filed the foregoing Notice of Removal with the Clerk of the Court using the CM/ECF system, and have provided a courtesy copy to Plaintiff's counsel of record at the following address, via email:

Howard F. Murphy, Esq.
Erin L. Santorella, Esq.
LAW OFFICE OF HOWARD F. MURPHY
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Pittsburgh, PA 15236
hfm@howardfmurphy.com

/s/ Marla N. Presley
Marla N. Presley